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July 14, 2009

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**MINUTES OF THE  
SUMMERFIELD TOWN COUNCIL  
SUMMERFIELD COMMUNITY CENTER  
JULY 14, 2009  
6:30 PM**

**NOTE: The official minutes are a CD recording of the meeting. The following is a summary of the events of the meeting.**

The meeting was called to order at 6:32 pm by Mark Brown. Brown announced the passing of Summerfield resident and Parks & Recreation Committee member Kate Rankins and asked audience members to keep the family in their prayers.

The invocation was led by Linda Southard, who noted that Rankins would be sorely missed by the town, its citizens, her husband, and their six children. The invocation was followed by the Pledge of Allegiance.

**INTRODUCTIONS:**

**Council:**

Mark Brown, Mayor  
Dena Barnes  
Alicia Flowers  
Becky Strickland  
Bob Williams  
John W. Wray Jr.

**Staff:**

Michael Brandt, Town Manager  
Dana Luther, Finance Officer  
William Hill, Town Attorney  
Valarie Halvorsen, Town Clerk  
George Holub, Parks & Rec Supervisor

**CONSENT AGENDA:**

Strickland asked for the following changes to the meeting agenda: removal of Park Grand Opening announcement and removal of 10A Discussion / Approval of Park Facilities Rental Agreement, as there was not a quorum of Parks & Rec Committee members present when these issues were discussed, making it a workshop rather than an official meeting, removal of 10D Discussion / Approval of Summerfield 5k Race and Fun Run, as there is no fund raising policy in place, and removal of 11A Discussion of Sale / Distribution of Town Lapel Pins, as mayor and manager can make this decision themselves. Brown feels that each of these items should remain on the agenda. Following brief discussion, the following motions were made:

- Agenda item 9C Grand Opening of Summerfield Community Park Phase II Saturday August 29<sup>th</sup> – motion to add to the agenda approved 4 to 1, Flowers opposed
- Agenda item 10A Discussion / Approval of Park Facilities Rental Agreement – motion to keep on agenda approved 3 to 2, Flowers and Strickland opposed
- Agenda item 10D Discussion / Approval of Summerfield 5k Race and Fun Run – Strickland read the following email into the record:

“Based on the Financial Officer's and Manager's concern about lack of a town-wide general fundraising/solicitation policy before any additional projects are undertaken by Committees, I volunteered at last Council meeting to draft one for Michael. Attached is a first-draft of a town-wide fundraising solicitation policy which I worked on for Michael from June 10 to June 15 as I told Council and him I would do. It was e-mailed on JUNE 15 to Manager, Financial Officer, and attorneys to edit before e-mailing to all Council and to be put on the Agenda - at least that is what I thought at the time. For whatever reason, it is not on the July 14 Agenda - but another fundraiser with still no general town policy in place is, Item #10D 5K Run. Just what is the rush to put the cart before the horse - again? I have legal issues with this backwards ad hoc procedure, due process, potential town liability, financial and audit concerns, and precedence setting. Again, the issue for me continues to be the process and not following the process just makes my job harder and more chaotic meetings. It is the Council who makes policy, not staff, not individual

council members, not SPARC. No SPARC member has any authority to bark "orders" to another committee member regarding fundraising procedures which she got from who knows where and were never seen or sanctioned by Council. It is Council who decides and directs the design of capital projects; it is Council who decides when grand openings will be; it is Council who makes policy and all town employees and committee members are required to comply with Council directives. Council cannot continue to seemingly have its power usurped in these manners by staff and committee members, else we become nothing but a rubber-stamp and a figurehead with no real role in government. That is not our job - Council were elected to govern. I feel it is critical that the Town have an official general fundraising policy in place before any further fundraiser is planned so everyone will know what is expected of them when they start. There's a name for this procedure: it's called due process of law. With that foremost, I ask that Item #10D be removed from the Agenda and in its place inserted discussion of "Town-wide general fundraising/solicitation policy."

Motion to replace on agenda with Discussion of Fundraising Policy *failed* 2 to 3. Barnes, Williams, and Wray opposed

- Agenda item 10D Discussion / Approval of Summerfield 5k Race and Fun Run – motion to keep on agenda approved 3 to 2, Flowers and Strickland opposed
- Agenda item 11A Discussion of Sale / Distribution of Town Lapel Pins – motion to keep on agenda approved 3 to 2, Flowers and Strickland opposed

Wray made a motion to approve the Consent Agenda, including the meeting agenda *as amended*, minutes of the June 9 and June 23, 2009 meetings, Financial Report, Finance Officer Budget Amendment #1 (FY08-09), Finance Officer Budget Amendment #1 (FY09-10), and Town Council Budget Amendment #1 (FY09-10). The motion was seconded by Barnes and passed 3 to 2, with Flowers and Strickland opposed.

#### **ANNOUNCEMENTS**

- Summerfield Community Park has earned the distinction of "Certified Wildlife Habitat" by the NC Wildlife Federation
- Comprehensive Plan Committee Meeting changed from Monday August 3<sup>rd</sup> to Wednesday August 5<sup>th</sup>. September meeting moved from September 7<sup>th</sup> to August 31<sup>st</sup>.
- July Finance Committee meeting is cancelled

#### **SPEAKERS FROM THE FLOOR (limited to 5 min. on non-agenda items)**

Gail Dunham, 5805 Snow Hill Drive, spoke about tax deductions, noting decisions about what is or is not tax deductible should not be at the discretion of staff, council, or committee members, but should follow IRS rules. She made a Public Records request for all information about tax deductible donations and who made the authorization, asked for the total cost of the athletic park, and feels that the Athletic Advisory Committee meetings have not been properly noticed and there should be a set meeting schedule.

Beth Kaplan, 7979 Highfill Rd, thanked Council, staff, and SPARC for the park, noting that she and many others have utilized and enjoyed the facilities. She urged continued support of the park and its events.

Dwayne Crawford, 1106 NC Hwy 150 West, asked who the ball fields were being built for, noting that at first it was stated the SRA would use them and now the answer is they are being built for no one. He also spoke of the proposed ballot referendum to change the form of government.

#### **COMMITTEE REPORTS:**

- A. Founders' Day:** Brown stated meetings would begin again in late August

- B. Finance:** Ronnie Stafford said the next meeting would be August 24, 2009.
- C. Historical:** Linda Southard said the next meeting would be July 16, 2009.
- D. Parks & Rec:** Sue Beeson said the next meeting was August 6, 2009, the park Phase II opening was scheduled for August 29, and the committee will deeply miss Kate Rankins.
- E. Public Safety:** Ron Marshburn said the July 15 meeting was cancelled and at the June 17 meeting they discussed a citizen request to lower the speed limit on Bronco Lane. There will be a park safety inspection this month.
- F. SYC:** No report.
- G. Comprehensive Plan:** Flowers stated the committee met June 29 and discussed density of development and multifamily housing. She noted due to a conflict, the regularly scheduled August 3<sup>rd</sup> meeting has been moved to August 5<sup>th</sup>.
- H. Athletic Advisory:** Brandt said one meeting was cancelled due to lack of a quorum and the last meeting was to go over plans and make recommendations to reduce costs. Strickland asked about committee minutes.

### **BUSINESS FROM COUNCIL**

**A. Appoint Thomas Mizelle as BOA member (from alternate, to replace Mike Horan, whose term has expired)**

Strickland noted Mizelle had very good attendance and recommended appointing him.

Wray made a motion to appoint Thomas Mizelle as a Board of Adjustment member. The motion was seconded by Williams and carried unanimously.

**B. Report on meetings or activities (if any) – None reported.**

**C. Grand Opening of Summerfield Community Park Phase II Saturday August 29<sup>th</sup>**

Brown stated the Parks & Recreation Committee had discussed it at their meetings and there was money budgeted for it. Brandt asked council for clarification on what events they wanted brought before them for approval, saying his understanding was that only new events were to come to council, not recurring events. He feels that since there has already been one park opening that this is a recurrent event and was approved as part of the budget process. Flowers feels the phase II opening is a new event and the committee should get council approval prior to putting a lot of work into an event. Strickland said the issue is the date, that council should have input on setting event dates so they can attend. Luther stated it was decided during the budget process that events that were in the budget were approved and any new events were to be brought before council and she and Brandt were working on drafting an event policy in which committees would bring a plan that would be submitted to council for approval. Flowers feels the main problem is that there are not policies in place for committees to follow. Brandt said such policies are in the process of being created, but rather than stop events and wait until policies are completed before scheduling events, the committee is asking permission to move forward. Luther noted some policies are or have been in place, but committees did not understand them, so they are going to be simplified into a summary format. Wray asked if anyone had a problem with the August 29 date and Strickland replied the date is not a problem, it is the process.

Williams made a motion to approve the Saturday August 29<sup>th</sup> date for the grand opening of Summerfield Community Park Phase II. The motion was seconded by Strickland and carried unanimously.

## **BUSINESS FROM TOWN MANAGER**

### **A. Discussion / approval of Park Facilities Rental Agreement**

Brandt stated the agreement was developed by SPARC at his direction, it was reviewed by staff and the attorney, changes were made, and it was sent back to SPARC for further review. While they did not have a quorum during the meeting of the final review, it was listed as a discussion item not an action item. Luther had a few minor wording changes. Brandt stated the agreement was for rental of the amphitheater and large picnic shelter, and described the document contents. He recommended waiving fees for the following: Summerfield Elementary School, Guilford County Schools, the Summerfield Grange, Garden Club, the VFW and other entities at the manager's or council's discretion, to be stated in a separate policy. Strickland feels the waiver information should be included in this document. There was much discussion, including the following: age requirements, security, supervision, oversight of booking and compliance, clean up, booking parameters, cleaning and repair fees, and rental fees.

By consensus, council directed Brandt to make changes including adding liaison information and the provision to reserve facilities up to one year in advance and bring back to council next month. There was brief discussion about the exclusion of religious services in the agreement.

### **B. Discussion / approval of Contract with RP Murray for construction of Summerfield Athletic Park**

Brandt stated the contract was for \$1,270,173 and included the following 5 provisions: 1) Summerfield shall reserve the right to sell the existing residential structure as surplus property under the rules and statutory laws of the Town of Summerfield and the State of North Carolina, and if such sale occurs then the cost of removal of the structure as detailed in the contract specifications shall be credited to the Town. 2) The Contractor and Owner will work to reduce the cost of construction for various project elements through a process of "value engineering". 3) At the Owners' discretion, additional contractors, vendors, or other service providers will be placed under RP Murray's general control and supervision to facilitate the completion of the project. The Owner and Contractor will negotiate a separate rate for such services. 4) The Contractor shall maintain and honor their bid quote for phase two of Summerfield Athletic Park until September 15<sup>th</sup>, 2009, with the exception of costs associated with the purchase of asphalt. 5) The Contractor and the Owner accept the addendum letter dated July 7, 2009 for clarifications to the bid specifications.

Brandt then addressed questions raised by Strickland which included the following issues: fixed-fee or cost-plus fixed fee contract (fixed fee, as costs are determined), pricing discrepancy of \$11,717 (allowances of \$5000 each for rock and bad soils, \$750 for plant maintenance, and \$967 for performance bond), potential duplicate charges for Excelsior Matting (Brandt will look into it), requested that the NCDENR letter about additional erosion control requirements be added as an addendum, fluctuating material prices (asphalt only), hold pricing for Phase II (due to PARTF delay), shift in responsibility for cost of soil compaction tests from contractor to town (responsibility of town, which is standard, and may add about \$10,000), and project timeline (6 months).

Strickland recommended having a fine system in place for going over the allotted time. Brandt said he spoke to the contractor, who has agreed to a penalty of \$500 per day for each day over the 6 month contract period, with a set allowance for inclement weather delays, which the contractor would have to submit a timely claim. This will be added as condition 6.

There was also discussion of poor performance, which would be handled through mediation. Flowers asked who would use the fields, are there any guarantees they will be used, and how they will be paid for and maintained by users. Brandt replied there were no use agreements in

place, while there are no guarantees of use, he finds it hard to believe they will not be used, that the intent is that anyone, not just organizations, could use the fields, and that there would be rental fees paid by users.

Wray made a motion to approve the contract with RP Murray, with the modifications added by Strickland (addition of the NCDENR letter as an addendum and additional condition of \$500 per day penalty for each day over the 6 month contract period with set allowance for inclement weather delays). The motion was seconded by Williams and carried 4 to 1, with Flowers opposed.

***Break from 8:40 to 8:51***

**C. Discussion / approval of purchase of well pump system at Summerfield Athletic Park**

Brandt stated the well drilling was successful and the next required step is to purchase and install a pump and do a drawdown test to determine if the well impacts the surrounding property owners. He further stated D&Y Well Drilling was the low bidder for the pump and installation, which should not exceed \$12,500.

Wray made a motion to approve the purchase and installation of the well pump from D&Y, not to exceed \$12,500. The motion was seconded by Williams and carried unanimously.

**D. Discussion / approval of Summerfield 5k race and Fun Run 8:54**

Brandt stated the request was to use the park as the base of operations for a 5K footrace and 1 mile Fun Run planned for September 19. The event is to be sponsored and organized by Gestalt Studios, the Northwest Observer and Off and Running, who plan to donate 75% of the net registration proceeds to Camp Carefree and 25% to parks and recreation programs. In exchange for the donation SPARC members will participate as volunteers coordinating parking and other support activities. Brandt noted any fundraising would not be done by the town, but the sponsoring businesses. Brandt then read from an email further describing the request:

I met with the business owners last week to discuss the Town's involvement. The plan for the 5k is to have a course that will include both park and on-street course. The business owners plan on hiring a third company called "Off and Running" to organize the event. In order to pay for the event the organizers will charge a fee for entries. The entry fee pays for all the organizational work, advertising, etc. Any funds collected over the costs will be donated to two organizations- 75% to Camp Carefree, 25% to Summerfield Parks and Recreation Programs. In my mind this was not a "fund raiser" as envisioned by the Fund Raising Policy in that individual members of staff, committee, or Council were attempting to raise funds for Summerfield or Camp Carefree- that is just where the additional revenues will be donated instead of being kept by the businesses. Off and Running is an established company that provides these types of races in Greensboro and other communities. Item E of the SPARC Ordinance are the duties of SPARC ... #7 Coordinate the recreational activities and programs conducted at parks owned or operated by the Town. Develop cooperative arrangements with other organizations and private groups when it will further the objective of providing more and varied kinds of programs and services for the citizens of the Town." I saw this opportunity for what it is- an opportunity to join forces with someone else that is going to provide the bulk of the work with the only services provided by the Town is a donation of the park space for the event and volunteers from the SPARC committee to help with various aspects of the event. In exchange for our participation the Town is associated with a fun event that opens the park to more citizens and provides a positive activity for the community. It appears to be a win-win for all involved. In order to meet the deadlines required for a September 19<sup>th</sup> date the Council is being requested to consider this event for approval- just like we have for other park events. This arrangement is similar in my mind to the Founders' Day revenue split- working with other organizations to put on a community event and splitting a portion of proceeds. The difference here is that they are putting up the money instead of the Town.

Brandt noted that all organizational aspects (safety cones, closing streets, collecting fees, and advertising) would be handled by Off and Running.

There was much discussion about fund raising, what constitutes fundraising, the current lack of a fund raising policy, the use of SPARC volunteers for an event put on by a private organization, sponsorships and co-sponsorships, and having the organization fill out a facility rental agreement and waiving the fees.

Wray made a motion for the Town of Summerfield to co-host the 5k event with the Northwest Observer utilizing the SPARC volunteers. The motion was seconded by Williams. Strickland says she is not opposed to the event, but is opposed to the process, that this is being done without a general fundraising policy being in place first. Flowers says she has no problem with it, but does not think the SPARC members should be used to work the event as that involves the town, that if members choose to donate their time as private citizens that would be fine. Flowers also feels there should be a fundraising policy in place beforehand. The motion passed 3 to 2, with Flowers and Strickland opposed.

**E. Report on meetings or activities (if any)**

Brandt said Guilford County has reached an agreement on the Marshall property and they should be ready to purchase very soon. As to the reimbursement of the \$500 monthly lease fee paid by the town, the county will not get involved in that, but there is a possibility of getting that money back.

Brandt gave an update about the Guilford County School systems search for a well/septic site, saying the intent is to use the area near the tower.

**BUSINESS FROM THE MAYOR**

**A. Discussion of sale/distribution of town lapel pins**

Flowers made a motion to order 50 pins to be sold for \$3 each. The motion was seconded by Williams and carried unanimously.

Luther was excused at 9:48pm.

**B. Request for support of inclusion of US 220/NC 68 Connector Project in any new five-year highway plan**

Following a brief discussion, Strickland made a motion to kill the resolution. The motion was seconded by Flowers and carried unanimously.

**C. Discussion of property available for purchase for Town use in downtown Summerfield**

Brown gave background information on the issue and described the properties. Following a brief discussion, it was decided by consensus that those council members who had not walked the Jones property should do so and the issue would be discussed during the August meeting.

**D. Report on meetings and activities (if any)**

Brown met with the Sheriff and his representatives and the other mayors of the North West quadrant for county updates.

**CLOSED SESSION:**

**A) Consider the qualifications, competence, performance, character, fitness, conditions of appointment or conditions of initial employment of an individual public officer or employee or prospective public officer or employee as provided under NCGS 143-318.11(a) (6); and**

Barnes made a motion to enter into closed session at 10:14 pm. The motion was seconded by Williams and carried unanimously.

Wray made a motion to return to open session at 11:17 pm. The motion was seconded by Barnes and carried unanimously.

**OTHER BUSINESS (if any)**

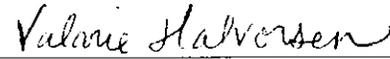
Strickland said she wanted to invite Tom Vincent to come and conduct a presentation on the NC Record Retention Schedule. There was discussion about asking other towns about their interest in participating and sharing any costs with them.

Strickland asked about traffic counters and Brandt stated it may be more cost effective to rent rather than purchase. Brandt will investigate and bring the matter back to council in August or September.

With no further business before the Town Council, a motion was made at 11:27 pm by Wray to adjourn. The motion was seconded by Barnes and carried unanimously.



\_\_\_\_\_  
Mark E. Brown, Mayor



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Valarie Halvorsen, Town Clerk